

UNITED STATES DISTRICT COURT

for the
Eastern District of Virginia

United States of America

v.

Xavier Louis LOPEZ

Case No. 3:23mj 43



Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 13, 2022 in the county of Henrico in the
Eastern District of Virginia, the defendant(s) violated:

Code Section

Offense Description

Title 18, United States Code,
Section 922(g)(1)

Possession of ammunition by convicted felon.

This criminal complaint is based on these facts:

See Attached Affidavit of SA Robert Wright, FBI

☒ Continued on the attached sheet.

Complainant's signature

Special Agent Robert L. Wright, FBI

Printed name and title

Sworn to before me and signed in my presence.

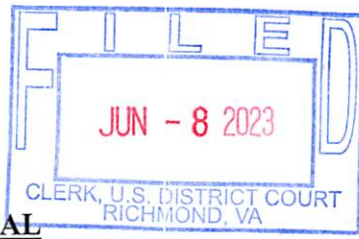
Date: 06/08/2023

Judge's signature

City and state: Richmond, Virginia

Hon. Mark R. Colombell, U.S. Magistrate Judge

Printed name and title



**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A CRIMINAL
COMPLAINT**

I, Robert Wright, being duly sworn, depose and say:

INTRODUCTION

1. I have been employed by the FBI since October 2011, serving in a variety of roles.
2. I have been a Special Agent of the FBI since June of 2016. I attended the FBI New Agents training course at Quantico, Virginia for approximately 20 weeks where I received the standard training for an FBI Special Agent.
3. I am currently assigned to the Joint Terrorism Task Force (JTTF), which investigates International Terrorism cases out of the Richmond, Virginia Field Office of the FBI, and I have been assigned to this squad since November of 2016. Prior to August 2021, my squad conducted both International Terrorism and Domestic Terrorism investigations, and I participated in both types of investigations. Through my employment with the FBI, I have gained knowledge in the use of various investigative techniques including the utilization of physical surveillance, consensually monitored recordings, investigative interviews, trash and mail covers, the service of Grand Jury Subpoenas and other legal processes, the execution of search and arrest warrants, FISA and Title III coverage, and the use of confidential human sources.
4. I have served as a Relief Supervisor for my squad since November 2019, and served as the Acting Supervisory Special Agent for approximately eight months in 2020. As an acting supervisor, I am responsible for directing terrorism investigations on my squad, to include recommending investigative techniques to Special Agents, Task Force Officers, and field intelligence employees, and to ensure that those investigations are being conducted in accordance with applicable laws and policies, most specifically the FBI's Domestic Investigations and Operations Guide.

5. I have attended classes and courses conducted by the FBI and other government agencies regarding the conduct of various criminal activities by persons and/or groups who are potentially involved in terrorism. Since June of 2018, I have served as the FBI Richmond Threat Management Coordinator, after receiving training from the FBI Behavioral Assessment Unit (BAU). As a result of my BAU training and experience, I am familiar with how persons and/or groups who are engaged in terrorism conduct their activities, specifically during the radicalization process. I routinely brief other organizations and entities on threat mitigation strategies, and participate in continuing education classes regarding these strategies.

6. I have become knowledgeable in the enforcement of state and federal laws pertaining to International and Domestic Terrorism. I have worked with Law Enforcement Officials from local, state, and federal agencies in investigating and prosecuting terrorism cases, both as a case agent on the Joint Terrorism Task Force (JTTF) and as a supervisor of the JTTF.

Facts and Circumstances

7. At all times relevant to this Affidavit, the defendant, Xavier LOPEZ, was a resident of Henrico County, Virginia, within the Eastern District of Virginia.

8. On or about January 7, 2021, Xavier LOPEZ pled guilty to a charge of Felony Vandalism, in violation of Virginia Code § 18.2-137 in Henrico County Circuit Court. As part of his plea agreement, LOPEZ was ordered to have no contact with any firearms, firearm components, or ammunition. LOPEZ was sentenced to five years' incarceration, with four years suspended for a period of 10 years. As a convicted felon, LOPEZ is a person prohibited from possessing a firearm or ammunition pursuant to Title 18 U.S.C § 922(g)(1). LOPEZ's right to possess a firearm has not been since restored.

9. Pursuant to that plea agreement, on or about January 6, 2021, a relative of LOPEZ's removed from LOPEZ's residence (a single-story residential property located at 1419 Fort Hill Drive, Henrico, Virginia 23226) firearm parts and ammunition belonging to LOPEZ and surrendered those materials—which LOPEZ was subsequently legally prohibited from possessing—to the Henrico County Police Department.

10. Upon completing his state prison sentence, on or about June 28, 2021, LOPEZ returned to his residence at 1419 Fort Hill Drive, Henrico, Virginia 23226, where he subsequently resided with a relative.

11. In November of 2022, a Henrico County Police detective obtained an arrest warrant for Xavier LOPEZ for a charge of Felony Unlawful Paramilitary Activity (in violation of Virginia Code § 18.2-433.2). The Henrico County Police also obtained a search warrant for LOPEZ's residence, 1419 Fort Hill Drive, Henrico, Virginia, 23226.

12. On or about November 13, 2022, Henrico County law enforcement officials executed the search warrant at LOPEZ's residence. Law enforcement agents with the FBI assisted in that search.

13. That search located a blue book bag within the closet of a bedroom identified as belonging to LOPEZ. Within that blue book bag, officers discovered a variety of items, to include a box labeled "Hornady Critical Defense," which contained twenty-five (25) rounds of 9mm caliber ammunition.

14. Also located within LOPEZ's bedroom was a cardboard box on the floor to the right of a table. On the table was a 3D printer. The box on the floor contained a variety of gun parts, accessories, shotgun shell casings (spent), and one (1) 7.62x39 caliber cartridge. Near the

3D printer, firearm parts to construct a 9mm handgun were located. An attempt at a 3D print job of a handgun's lower receiver was also recovered in the bedroom.

15. These items were photographed and collected by Henrico County Police.

16. On April 10, 2023, a special agent of the ATF reviewed photographs of the above-described 9mm and 7.62x39 caliber ammunition, and reported the following:

- i. Exhibit 1: Twenty-five (25) rounds of 9mm caliber ammunition containing the head stamp "Hornady" at the 12 o'clock position, along with the "9mm LUGER" at the 6 o'clock position.
- ii. Exhibit 2: One (1) round of 7.62x39mm caliber ammunition containing the head stamp with a non-English symbol at the 12 o'clock position, along with 7.62x39 at the 6 o'clock position.

17. The ATF agent reported that his findings, upon his review of those two types of ammunition, were:

- iii. Exhibit 1: Is ammunition as defined in Title 18, U.S.C., Chapter 44, Section 921 (a)(17)(A) and was manufactured by Hornady in Grand Island, Nebraska.
- iv. Exhibit 2: Is ammunition as defined in Title 18, U.S.C., Chapter 44, Section 921 (a)(17)(A) and was manufactured by Barnaul Cartridge Works in the country of Russia.

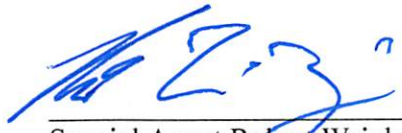
18. Accordingly, as ammunition manufactured outside of the Commonwealth of Virginia, both the 9mm caliber ammunition and the 7.62 caliber cartridge necessarily traveled in interstate or foreign commerce prior to LOPEZ's possession of that ammunition.

19. Xavier LOPEZ was interviewed while the search of the residence was ongoing. LOPEZ confirmed to agents that he (LOPEZ) was a convicted felon. In this interview and a

subsequent interview conducted on or about February 7, 2023, LOPEZ acknowledged that he possessed the ammunition recovered from his bedroom. LOPEZ indicated to law enforcement agents that possessing the items located within his bedroom "...was a risk I was willing to take."

CONCLUSION

20. Based on all of the foregoing, I submit that there is probable cause to conclude that on or about November 13, 2022, the defendant, Xavier LOPEZ, knowing that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess ammunition, that is, (25) rounds of 9mm caliber and (1) round of 7.62 caliber ammunition, said ammunition having been shipped and transported in interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).



Special Agent Robert Wright
Federal Bureau of Investigation

Sworn to and subscribed before me this 8th day of June, 2023.



Hon. Mark R. Colombell
United States Magistrate Judge